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City of San Bernardino
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16 **UNITED STATES BANKRUPTCY COURT**

17 **CENTRAL DISTRICT OF CALIFORNIA**

18 **RIVERSIDE DIVISION**
19

20 In re

21 CITY OF SAN BERNARDINO,
CALIFORNIA,

22 Debtor.
23
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Case No. 6:12-bk-28006 MJ

Chapter 9

**ORDER DIRECTING AND APPROVING
FORM OF NOTICE AND SETTING
DEADLINE FOR FILING OBJECTIONS TO
THE CITY OF SAN BERNARDINO,
CALIFORNIA'S PETITION**

Date: August 17, 2012
Time: 10:00 a.m.
Place: Courtroom 301
Hon. Meredith A. Jury
Courtroom 301
3420 Twelfth Street
Riverside, CA 92501

FILED & ENTERED

AUG 24 2012

CLERK U.S. BANKRUPTCY COURT
Central District of California
BY tolleson DEPUTY CLERK

1 The Court, having read and considered the Motion for Entry of an Order (1) Directing and
2 Approving Form of Notice; and (2) Setting Deadline for Filing Objections to Petition (the
3 “Motion”), submitted by the City of San Bernardino, California (the “City”), the debtor in the above-
4 captioned case, the memorandum of points and authorities in support of the Motion, the oppositions
5 and responses to the Motion [Docket Nos. 76, 80, 81, 82, 83, 84 & 85], the City’s Reply [Docket No.
6 90] to those oppositions and responses, the record in this case, the appearances and representations
7 of counsel for the City and for the parties that filed the oppositions and responses at the hearing, and
8 any admissible evidence presented to the Court at or prior to the hearing on the Motion, if any,
9 hereby finds that: (a) notice of the Motion and the hearing thereon was reasonable and proper under
10 the circumstances, (b) the relief requested in the Motion, as modified herein, is reasonable, necessary
11 and in the best interests of the City, its creditors and parties in interest in this case, and (c) good
12 cause appearing therefor;

13 **IT IS HEREBY ORDERED** that:

14 The Motion is granted.

15 1. The form of Notice of Commencement of Chapter 9 Case (the “Notice”) attached
16 hereto is approved;

17 2. The requirements of Bankruptcy Code § 923 are satisfied by service of the Notice by
18 first class mail on the United States Trustee and all entities identified on the List of Creditors filed by
19 the City pursuant to Bankruptcy Code § 924, and by publication of the Notice once a week for at
20 least three consecutive weeks in each of *The Sun* and *The Bond Buyer* beginning on or shortly after
21 September 7, 2012, which is approximately one week after mailing of the Notice as provided below;

22 3. The Clerk of the Court or the noticing agent appointed by this Court is directed to
23 mail the Notice to all creditors listed on the City’s List of Creditors filed pursuant to Bankruptcy
24 Code § 924 on or before August 31, 2012;

25 4. The City shall file, and serve on the Special Notice Parties (as that term is defined in
26 the Notice), its memorandum in support of its petition and Statement of Qualifications under Section
27 109(c), any declarations and all other evidence in support thereof on or before 5:00 p.m. Pacific time
28 on August 31, 2012;

1 5. The deadline for filing and serving on the Special Notice Parties any motion related to
2 limited discovery is 5:00 p.m. Pacific time on September 11, 2012; the deadline for filing and
3 serving on the moving party a response or opposition to any such motion is 5:00 p.m. Pacific time
4 on September 18, 2012; and the hearing(s) on any such motion(s) shall be held on September 21,
5 2012 at 10:00 a.m.;

6 6. As more particularly described in the Notice, the deadline for filing and serving
7 objections to the petition under Bankruptcy Code § 921(d) is 5:00 p.m. Pacific time on October 24,
8 2012 (the "Objection Deadline");¹

9 7. If any objection to the City's chapter 9 petition is filed and served as required by this
10 Order and the Notice by the Objection Deadline, then the Court shall hold a status conference on the
11 matter created by such objection on November 5, 2012 at 10:00 a.m.

12 8. In the absence of any objection to the City's chapter 9 petition by the Objection
13 Deadline, the Notice shall serve as notice of the entry of an order for relief.

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DATED: August 24, 2012

United States Bankruptcy Judge

¹ The term "limited discovery," herein means any motion related to limited discovery, such as any motion relating to discovery requests or disputes made prior to the filing of an objection to the City's petition under Bankruptcy Code Section 921(d) and pertaining to the City's eligibility for relief under Chapter 9 or the City's Statement of Qualifications under Section 109(c), whether pursuant to Bankruptcy Rule 2004 or 9014. Nothing herein shall affect the City's rights, all of which are expressly reserved, to oppose requested discovery on any and all grounds including, without limitation, that the parties are not entitled to any discovery before an objection is filed to the City's eligibility to be a Chapter 9 debtor.

1 PROPOSED BY:

2 STRADLING YOCCA CARLSON & RAUTH
A Professional Corporation
3 PAUL R. GLASSMAN
LAURA L. BUCHANAN
4 KATHLEEN D. DeVANEY
Attorneys for City of San Bernardino, California
5

6 APPROVED AS TO FORM:

7 WINSTON & STRAWN LLP
LAWRENCE A. LAROSE
8 SAMUEL S. KOHN
GREGORY MARTIN
9 Attorneys for National Public Finance
Guarantee Corporation
10

11 ARENT FOX LLP
DAVID L. DUBROW
12 METTE H. KURTH
MARK A. ANGELOV
13 Attorneys for Ambac Assurance
Company, Erste Europäische
14 Pfandbrief- und Kommunalkreditbank
AG, and Wells Fargo Bank, N.A., as Trustee
15

16 MCDERMOTT WILL & EMERY LLP
JASON D. STRABO
17 WILLIAM P. SMITH
NATHAN F. COCO
18 MILES W. HUGHES
Attorneys for U.S. Bank National Association,
19 not individually, but as Indenture Trustee
20

21 BIENERT, MILLER & KATZMAN, PLC
STEVEN JAY KATZMAN
ANNE UYEDA
22 ANTHONY BISCONTI
Attorneys for Retired Employees of the City
23 of San Bernardino Jenifer Aragon, Michael
Billdt, Michael Eckley, Walt Goggin, Wayne
24 Harp, Frank Mankin, Denis Moon, Scott
Paterson, and Robert Simmons
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MARSHACK HAYS LLP
RICHARD A. MARSHACK
D. EDWARD HAYS
CHAD V. HAES

COREY W. GLAVE, Attorney at Law
Attorneys for Creditor,
SAN BERNARDINO CITY
PROFESSIONAL FIREFIGHTERS
LOCAL 891

ATTACHMENT TO ORDER (FORM OF NOTICE)

PAUL R. GLASSMAN (State Bar No. 76536)
LAURA L. BUCHANAN (State Bar No. 156261)
KATHLEEN D. DeVANEY (State Bar No. 156444)
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Attorneys for Debtor
City of San Bernardino

UNITED STATES BANKRUPTCY COURT

CENTRAL DISTRICT OF CALIFORNIA

RIVERSIDE DIVISION

In re

CITY OF SAN BERNARDINO,
CALIFORNIA,

Debtor.

Case No. 6:12-bk-28006 MJ

Chapter 9

**NOTICE OF COMMENCEMENT OF
CHAPTER 9 CASE**

**TO ALL CREDITORS OF THE CITY OF SAN BERNARDINO, CALIFORNIA, AND TO
PARTIES IN INTEREST. PLEASE TAKE NOTICE THAT:**

COMMENCEMENT OF CHAPTER 9 CASE. On August 1, 2012, the City of San Bernardino, California (the "City") commenced a case under chapter 9 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Central District of California, Riverside Division (the "Court"). The chapter 9 case is pending before the Honorable Meredith A. Jury, United States Bankruptcy Judge. All documents filed with the Court are available

1 for inspection via the PACER system, which may be accessed on a subscription basis at the
2 following internet address: www.cacb.uscourts.gov. In addition, the City is in the process of adding
3 a link to its website, www.sbcity.org that will contain, among other things, key pleadings filed in this
4 bankruptcy case.

5 **AUTOMATIC STAY.** Pursuant to sections 362 and 922 of the Bankruptcy Code, 11 U.S.C.
6 §§ 362 and 922, the filing of the City's chapter 9 petition operates as an automatic stay of actions
7 against the City, including, among other things, the enforcement of any judgment, any act to obtain
8 property from the City, any act to create, perfect, or enforce any lien against property of the City,
9 any act to collect, assess or recover a claim against the City, and the commencement or continuation
10 of any judicial, administrative, or any other action or proceeding against the City or against an
11 officer or inhabitant of the City that seeks to enforce a claim against the City.

12 **PURPOSE OF THE CHAPTER 9 FILING.** Chapter 9 of the Bankruptcy Code provides a
13 means for a municipality that has encountered financial difficulty to work with its creditors to adjust
14 its debts. The primary purpose of chapter 9 is to allow the municipality to continue its operations
15 and its provision of services while it adjusts or restructures creditor obligations. In a chapter 9 case,
16 the jurisdiction and powers of the bankruptcy court are limited such that the court may not interfere
17 with any of the political or governmental powers of the City, or the City's use or enjoyment of any
18 income-producing property. The City intends to propose a plan for the adjustment of its debts.
19 Future notice concerning any such plan will be provided to all known creditors. During the
20 bankruptcy case, the City will remain in possession and control of its property, and will maintain its
21 operations for the benefit of the public.

22 **DEADLINE FOR OBJECTIONS TO PETITION AND ENTRY OF AN ORDER FOR**
23 **RELIEF.** Objections to the chapter 9 petition may be filed by a creditor or party in interest by no
24 later than 5:00 p.m. Pacific time on October 24, 2012. If you are an authorized user of the Court's
25 CM/ECF system, any such objection shall be filed via the Court's CM/ECF system. If you are not
26 an authorized user of the Court's CM/ECF system, a written objection must be sent by means
27 calculated to reach the Court no later than 5:00 p.m. on October 24, 2012 at the following address:
28 The Clerk of the United States Bankruptcy Court for the Central District of California, Riverside

1 Division, 3420 Twelfth Street, Riverside, California 92301-3819. Any objection shall state the facts
2 and legal authorities relied upon in support thereof, and shall be served on or before the same date on
3 the following parties (collectively, the "Special Notice Parties"): (1) the United States Trustee;
4 (2) the City; (3) the City Attorney; (4) the City's chapter 9 counsel; (5) the creditors holding the 20
5 largest unsecured claims against the City; and (6) any other party who has filed a request for special
6 notice with the Court. The contact information for such persons may be found on the Special Notice
7 List that the City will file with the Court prior to the publication of this Notice.

8 **HEARING ON OBJECTIONS.** If no objection is timely filed, the filing of the petition
9 shall be deemed an order for relief under chapter 9 of the Bankruptcy Code, and this notice shall be
10 deemed notice of such order for relief. If a timely objection is filed and served, the Court has set a
11 status conference for November 5, 2012 at 10:00 a.m. Pacific time at the United States Bankruptcy
12 Court for the Central District of California, Riverside Division, 3420 Twelfth Street, Courtroom 301,
13 Riverside, California 92301-3819. At such time, the Court will consider setting other dates.

14 **FAILURE TO FILE A TIMELY WRITTEN OPPOSITION WILL RESULT IN THE ORDER**
15 **FOR RELIEF BEING ENTERED.**

16 Dated: August __, 2012

STRADLING YOCCA CARLSON & RAUTH
A Professional Corporation

18 By: /s/ Paul R. Glassman

Paul R. Glassman

Attorneys for City of San Bernardino, Debtor

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

100 Wilshire Blvd., Suite 440, Santa Monica, CA 90401.

A true and correct copy of the foregoing document entitled: ORDER DIRECTING AND APPROVING FORM OF NOTICE AND SETTING DEADLINE FOR FILING OBJECTIONS TO THE CITY OF SAN BERNARDINO, CALIFORNIA'S PETITION will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On _____, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☐ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On _____, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on August 23, 2012, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

OVERNIGHT MAIL:

Honorable Meredith A. Jury
U.S. Bankruptcy Court
3420 Twelfth Street, Suite 325
Riverside, CA 92501-3819

SERVED BY EMAIL:

Attorneys for National Public Finance Guaranty Corporation:
Lawrence A. Larose llarose@winston.com
Samuel S. Kohn skohn@winston.com
Matthew M. Walsh mwalsh@winston.com
Gregory A. Martin gmartin@winston.com

Attorneys for Retired Employees of the City
of San Bernardino Jenifer Aragon, Michael
Billdt, Michael Eckley, Walt Goggin, Wayne
Harp, Frank Mankin, Denis Moon, Scott
Paterson, and Robert Simmons:
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Chad V. Haes chaes@marshackhays.com
Corey W. Glave SBCPFattorney@gmail.com

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

August 23, 2012
Date

Christine Pesis
Printed Name

/s/ Christine Pesis
Signature

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

NOTICE OF ENTERED ORDER AND SERVICE LIST

Notice is given by the court that a judgment or order entitled (*specify*): ORDER DIRECTING AND APPROVING FORM OF NOTICE AND SETTING DEADLINE FOR FILING OBJECTIONS TO THE CITY OF SAN BERNARDINO, CALIFORNIA'S PETITION was entered on the date indicated as Entered on the first page of this judgment or order and will be served in the manner stated below:

1. SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF) Pursuant to controlling General Orders and LBRs, the foregoing document was served on the following persons by the court via NEF and hyperlink to the judgment or order. As of August 23, 2012, the following persons are currently on the Electronic Mail Notice List for this bankruptcy case or adversary proceeding to receive NEF transmission at the email addresses stated below.

Jerrold Abeles abeles.jerry@arentfox.com
Joseph M Adams jadams@lawjma.com
Andrew K Alper aalper@frandzel.com, efiling@frandzel.com; ekidder@frandzel.com
Thomas V Askounis taskounis@askounisdarcy.com
Anthony Bisconti tbisconti@bmkattorneys.com
Jeffrey E Bjork jbjork@sidley.com
Sarah C Boone sboone@marshackhays.com, ecfmarshackhays@gmail.com
J Scott Bovitz bovitz@bovitz-spitzer.com
Jeffrey W Broker jbroker@brokerlaw.biz
Deana M Brown dbrown@milbank.com
Michael J Bujold Michael.J.Bujold@usdoj.gov
Christina M Craige ccraige@sidley.com
Alex Darcy adarcy@askounisdarcy.com
Susan S Davis sdavis@coxcastle.com
Robert H Dewberry robert.dewberry@dewlaw.net
Todd J Dressel dressel@chapman.com, lubecki@chapman.com
Scott Ewing contact@omnimgt.com, sewing@omnimgt.com
Paul R. Glassman pglassman@sycr.com
Everett L Green everett.l.green@usdoj.gov
Chad V Haes chaes@marshackhays.com, ecfmarshackhays@gmail.com
James A Hayes jhayes@cwlawyers.com
M Jonathan Hayes jhayes@hayesbklaw.com,
roksana@hayesbklaw.com; carolyn@hayesbklaw.com; elizabeth@hayesbklaw.com
D Edward Hays ehays@marshackhays.com, ecfmarshackhays@gmail.com
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Whitman L Holt wholt@ktbslaw.com
Steven J Katzman SKatzman@bmkattorneys.com
Jane Kespradit jane.kespradit@limruger.com, amy.lee@limruger.com
Mette H Kurth kurth.mette@arentfox.com
Richard A Marshack rmarshack@marshackhays.com, lbergini@marshackhays.com; ecfmarshackhays@gmail.com
Gregory A Martin gmartin@winston.com
Aron M Oliner roliner@duanemorris.com
Scott H Olson solson@seyfarth.com
Dean G Rallis drallis@sulmeyerlaw.com
Christopher O Rivas crivas@reedsmith.com
Kenneth N Russak krussak@frandzel.com, efiling@frandzel.com; dmoore@frandzel.com
Gregory M Salvato gsalvato@salvatolawoffices.com, calendar@salvatolawoffices.com
Benjamin Seigel bseigel@buchalter.com, IFS_filing@buchalter.com
Diane S Shaw diane.shaw@doj.ca.gov
Jason D Strabo jstrabo@mwe.com, losangelestrialdocket@mwe.com

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

Matthew J Troy matthew.troy@usdoj.gov
United States Trustee (RS) ustpregion16.rs.ecf@usdoj.gov
Anne A Uyeda auyeda@bmkattorneys.com
Annie Verdries verdries@lbbslaw.com
Brian D Wesley brian.wesley@doj.ca.gov

☐ Service information continued on attached page

2. SERVED BY THE COURT VIA UNITED STATES MAIL: A copy of this notice and a true copy of this judgment or order was sent by United States mail, first class, postage prepaid, to the following persons and/or entities at the addresses indicated below:

☐ Service information continued on attached page

3. TO BE SERVED BY THE LODGING PARTY: Within 72 hours after receipt of a copy of this judgment or order which bears an "Entered" stamp, the party lodging the judgment or order will serve a complete copy bearing an "Entered" stamp by United States mail, overnight mail, facsimile transmission or email and file a proof of service of the entered order on the following persons and/or entities at the addresses, facsimile transmission numbers, and/or email addresses stated below:

☐ Service information continued on attached page